

### REMARKS/ARGUMENTS

In the office action dated August 19, 2008, claims 1, 3, 5 - 8, and 13 - 19 were rejected as anticipated by Pinicaro, U.S. Patent 5,333,324. Claims 5, 10 - 11, and 20 - 21 were rejected as anticipated by Leaverton, U.S. Patent 5,682,625. The Applicants were further required to elect a species between Fig. 2, Fig. 7, Fig. 8, Fig. 9, and Fig. 10.

In response, claims 1, 4, 5, 8, 12 - 14, 19, and 20 have been amended. Claims 3, 7, 9 - 11, 15, and 16 have been cancelled. Reconsideration in view of the amendments and the following remarks is respectfully requested.

#### **Restriction Requirement.**

In response to the restriction requirement, Applicants elect the claims directed to Figs. 1 - 6, including Fig. 2. The claims as amended are directed to this embodiment of the invention. Claims directed to other embodiments have been cancelled.

#### **102 Rejections**

Independent claim 5 has been amended to incorporate limitations of claims 7, 10 and 11, and now requires:

*'left and right-side upper body water outlet fittings comprising two spaced upper body water outlets one positioned to direct a water flow onto the left-side upper body of a bather and the other positioned to direct a water flow onto the right-side upper body of the bather, which are pivotally mounted enabling a bather sitting in the bath to adjust the direction of the water flow from the fittings onto the bathers upper body, each fitting comprising an elongate hollow body and a hollow mounting neck which opens to an interior of said elongate hollow body and which extends from closer to one end of the fitting than an opposite end and enters into an aperture in the bath wall or a rim around the top of the bath wall by which the fitting is pivotally mounted and for water supply to the fitting from within the bath and through the*

*mounting neck to the hollow body of the fitting for delivery onto the shoulders and/or neck of a said bather sitting in the bath.'*

This claim language defines fittings of the type shown in the embodiment of Figures 1-6 of applicant's specification. Specifically, referring to Fig. 6, the fitting 4 includes hollow mounting neck 6 that can be pivotally coupled to an aperture in the bath wall. The top of the fitting 4 is pushed or pulled to rotate the fitting in the aperture, to cause the fitting 4 to pivot about the mounting neck in the direction of arrows P shown in Figure 3A.

The limitation to a hollow mounting neck pivotally mounted to an aperture of the bath wall was initially provided in claim 11. This claim was rejected under 35 USC 102(b) as anticipated by Leaverton et al – US patent 5,682,625, as follows:

*'See the pillow 10 of Fig 1, having permitted jets at 42 and 46 as described at col. 5, lines 19+, where the jets are said to be of the type disclosed by Leaverton et al (US 5,495,627). These jets, as seen in Fig 6 of the latter are pivoted and have a hollow interior through which water passes and a hollow mounting neck 112.'*

Leaverton et al ('625 or '627), however, does not disclose a fitting of this type, but rather discloses eyeball type fittings. Referring to Leaverton '627 Fig. 6, here, a hollow valve body 112 includes a spherically shaped exterior, received in a socket basket 102. An externally threaded socket cap 108 fits over the socket basket 102 and acts as a ball-joint, which allows the fitting to articulate.

The structural features and functionality of the eyeball type fittings of Leaverton et al. are therefore substantially different from the fittings recited in claim 5. Leaverton, specifically, does not disclose 'each fitting comprising ... a hollow mounting neck which opens to an interior of said elongate hollow body and which ... enters into an aperture in the bath wall or a rim around the top of the bath wall by which the fitting is pivotally mounted and for water supply to the

fitting from within the bath and through the mounting neck to the hollow body of the fitting ...'.

Leaverton, therefore, does not anticipate claim 5, as amended, and the Applicants respectfully request that the rejection be withdrawn.

Independent claims 1 and 20 have been amended to comprise similar limitations to those recited in claim 5, as amended. Specifically, claim 1 recites:

*'left and right side upper body water outlet fittings comprising two spaced upper body water outlets one positioned to direct a water flow onto the left-side upper body of a bather and the other positioned to direct a water flow onto the right-side upper body of the bather, which are pivotally mounted enabling a bather sitting in the bath to adjust the direction of the water flow from the fittings onto the bathers upper body, each fitting being elongate in shape with two ends and having a hollow interior and a hollow mounting neck extending from closer to one end of the fitting than an opposite end and by which the fitting is pivotally mounted in an aperture in at least one of the bath wall and a rim around the top of the bath wall'*

Claim 20, similarly recites:

*'upper body water outlets one positioned to direct a water flow onto the left-side of a bather and the other positioned to direct a water flow onto the right-side upper body of the bather, which are pivotally mounted enabling a bather sitting in the bath to adjust the direction of the water flow from the fittings onto the bathers upper body, each fitting comprising an elongate hollow body and a hollow mounting neck which opens to an interior of said elongate hollow body and which extends from closer to one end of the fitting than an opposite end and*

*entering into an aperture in the bath wall or a rim around the top of the bath wall, by which the fitting is pivotally mounted and for water supply to the fitting from within the bath and through the mounting neck to the hollow body of the fitting for delivery onto at least one of the shoulders and the neck of said bather sitting in the bath'*

Claims 1 and 20 are therefore distinguished over the cited references for the reasons set forth above with respect to claim 5.

### **Conclusion**

In view of the foregoing amendments and remarks, the claims are believed to be in condition for allowance, and a notice of allowance for these claims is respectfully requested.

A three month extension fee is necessary for entry of this response. The Commissioner is hereby authorized to charge \$1,110.00 and any other fees under 37 CFR § 1.17 that may be due on this application to Deposit Account 17-0055. The Commissioner is also authorized to treat this amendment and any future reply in this matter requiring a petition for an extension of time as incorporating a petition for extension of time for the appropriate length of time as provided by 37 CFR § 136(a)(3).

Respectfully submitted,  
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